

Exhibit 3

Baodong Liu, Ph.D.
The South Carolina State Confvs.McMaster/Alexander

August 4, 2022

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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF SOUTH CAROLINA
3 COLUMBIA DIVISION

4 THE SOUTH CAROLINA STATE CONFERENCE OF
5 THE NAACP, et al.,

6 Plaintiffs,

7 vs. CASE NO. 3:21-cv-03302-MBS
8 TJH-RMG

9 THOMAS C. ALEXANDER, et al.,
10 Defendants.

11 CONGRESSIONAL PLAN LITIGATION

12 VTC

13 DEPOSITION OF: BAODONG LIU, PH.D.
14 (Appearing by VTC)

15 DATE: August 4, 2022

16 TIME: 12:21 p.m.

17 LOCATION: 4231 South 2700 East
18 Salt Lake City, UT

19 TAKEN BY: Counsel for the Defendants

20 REPORTED BY: Susan M. Valsecchi, CRR
21 Registered Professional Reporter
22 (Appearing by VTC)
23
24
25

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<p style="text-align: right;">Page 18</p> <p>1 the data on which you relied?</p> <p>2 A. Yeah, there's a data team, I believe.</p> <p>3 They are the experts from ACLU data team. And they</p> <p>4 provided documentation that I requested about this</p> <p>5 particular case concerning demographics and also</p> <p>6 election outcomes and turnout and so on, yes. It's</p> <p>7 in my appendix.</p> <p>8 Q. Do you know the names of the</p> <p>9 individuals on the data team?</p> <p>10 A. There is one person that I remember</p> <p>11 named Benjamin. I don't recall the last name, but,</p> <p>12 yes, Ben, is one of the team members because he was</p> <p>13 in some of the meetings and some of the e-mail</p> <p>14 communications, so, yes, that's how I know.</p> <p>15 Q. Is that possibly Ben Fifield, or</p> <p>16 Fifield?</p> <p>17 A. Again, I have to go back to my e-mail</p> <p>18 to give you the exact name, but I just remember</p> <p>19 first names.</p> <p>20 Q. Has counsel provided you any</p> <p>21 assumptions for this case?</p> <p>22 A. No. They provided me with the</p> <p>23 Complaint, different versions of the Complaint by</p> <p>24 the Plaintiffs, and I read those. And obviously we</p> <p>25 communicated about this case but they never gave me</p>	<p style="text-align: right;">Page 20</p> <p>1 so they helped me tremendously on that part.</p> <p>2 So eventually I believe I had an</p> <p>3 exhaustive list of these candidates in biracial</p> <p>4 elections that I needed to conduct my racially</p> <p>5 polarized voting effectiveness analysis.</p> <p>6 So, yes, they helped me in that regard.</p> <p>7 Q. So I want to understand this a little</p> <p>8 bit better about this list. What is shown on this</p> <p>9 list?</p> <p>10 A. I believe there are names of the</p> <p>11 candidates and what districts they won, elections,</p> <p>12 and what year, and also the links to these</p> <p>13 candidates' profiles, especially Ballotpedia, yes,</p> <p>14 and they also have a master list of all the</p> <p>15 candidates.</p> <p>16 They tried to investigate and</p> <p>17 eventually come up with a short list of all these</p> <p>18 congressional races, so, um, the spreadsheet</p> <p>19 contains all of the necessary information about who</p> <p>20 the candidates are and their background</p> <p>21 information.</p> <p>22 Q. Does this list also show election</p> <p>23 results?</p> <p>24 A. Um, oh, you're testing my memory. I</p> <p>25 think maybe so, but I -- I would have to go back to</p>
<p style="text-align: right;">Page 19</p> <p>1 so called assumptions.</p> <p>2 I've done this for more than two</p> <p>3 decades, so I know what each case can be and I</p> <p>4 analyzed what they told me about the Complaint.</p> <p>5 And everything that I recorded in my own original</p> <p>6 report is truly my own. So, yeah, nobody gave me</p> <p>7 any assumptions.</p> <p>8 Q. Other than the data you mentioned and</p> <p>9 the Complaint, did counsel provide you any other</p> <p>10 materials related to this case?</p> <p>11 A. Yes, I obviously have done some</p> <p>12 research about South Carolina, myself, in the past,</p> <p>13 so I know high-profile elections, including</p> <p>14 obviously the presidential election, the state of</p> <p>15 South Carolina played a role in both primary and</p> <p>16 general and some high-profile Senate, U.S. Senate</p> <p>17 elections, but I'm not -- I was not very familiar</p> <p>18 with some of the other elections in districts that</p> <p>19 are not nationally well known, so I asked the</p> <p>20 counsel to help me compile a list of all elections</p> <p>21 that took place for congressional seats in South</p> <p>22 Carolina in national circles, in circles of</p> <p>23 elections. And so they helped me and we went back</p> <p>24 and forth and double checked all the names, the</p> <p>25 candidates' racial and other political backgrounds;</p>	<p style="text-align: right;">Page 21</p> <p>1 the list and take a deeper look, a detailed look.</p> <p>2 But it wouldn't matter if it's there or</p> <p>3 not because eventually, if it's a biracial</p> <p>4 election, I analyzed it anyway.</p> <p>5 So I would have all of the data in</p> <p>6 front of me and run my analysis and see what's the</p> <p>7 result. So I would not rely on whatever they told</p> <p>8 me in that list. It may be there, it may be not.</p> <p>9 But I would have to see the list in front of me to</p> <p>10 give you a firm answer on that.</p> <p>11 Q. And, Dr. Liu, when you received your</p> <p>12 Notice of Deposition asking you to provide copies</p> <p>13 of materials you relied on and communications with</p> <p>14 counsel, what did you do to collect that list?</p> <p>15 A. Obviously all the e-mails I had with</p> <p>16 them, they have records. I have my data which also</p> <p>17 was provided to me by their data team, and so they</p> <p>18 know how I got them. And that's there.</p> <p>19 I have my R codes. And by R, what I</p> <p>20 mean is a statistical program, simply R, letter R.</p> <p>21 So I used that statistical software to run a lot of</p> <p>22 the analysis. And they're all in my computer.</p> <p>23 Sometimes, uh, the counsel would need,</p> <p>24 you know, the final code that I put together for</p> <p>25 running the RPV results and --</p>

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<p style="text-align: right;">Page 154</p> <p>1 your rebuttal report, which I marked as Exhibit 3</p> <p>2 and I believe sent to you as Tab 3.</p> <p>3 Do you have that in front of you?</p> <p>4 A. Yeah, I have it in front of me.</p> <p>5 MR. GORE: And if I have done this</p> <p>6 right, it should be up on the screen.</p> <p>7 Can you see that, John, in Exhibit</p> <p>8 Share?</p> <p>9 MR. CUSICK: I've just been following</p> <p>10 on a local copy, but I have the document</p> <p>11 here, yes.</p> <p>12 MR. GORE: Okay, that's fine. I want</p> <p>13 to make sure we're all on the same page.</p> <p>14 BY MR. GORE:</p> <p>15 Q. Dr. Liu, why did you prepare a rebuttal</p> <p>16 report in this case?</p> <p>17 A. Yes, just like almost all other cases,</p> <p>18 our responsibility as an expert witness not only</p> <p>19 includes our own report, but also how we reacted to</p> <p>20 the counterpart, the other expert for the other</p> <p>21 side.</p> <p>22 So in this case, after I submitted my</p> <p>23 report, I was informed by the counsel for the</p> <p>24 Plaintiffs that they eventually got a report from</p> <p>25 the other expert and so they sent it to me and</p>	<p style="text-align: right;">Page 156</p> <p>1 name at all. Even two days ago I received his</p> <p>2 rebuttal, but it addressed the reports conducted by</p> <p>3 the other two experts for the Plaintiffs.</p> <p>4 Q. Okay. Let me ask you about Page 2 of</p> <p>5 your rebuttal report.</p> <p>6 A. Okay, I'm here.</p> <p>7 Q. There's a numbered list and then</p> <p>8 there's a paragraph that says, "Despite my concerns</p> <p>9 about his methodology and the data he relied upon</p> <p>10 described below, Mr. Trende and I agree that the</p> <p>11 enacted plan makes District 1 meaningfully more</p> <p>12 Republican."</p> <p>13 A. Uh-huh, yes, yes, I see that.</p> <p>14 Q. Do you still agree with Mr. Trende on</p> <p>15 that point?</p> <p>16 A. Yes, certainly Republican candidates</p> <p>17 would gain more influence to make it -- to run in a</p> <p>18 more favorable environment, as opposed to</p> <p>19 Democratic candidates. That will be the case, in</p> <p>20 my view, if the enacted plan won, indeed will be</p> <p>21 the future.</p> <p>22 Q. And you also agree with Mr. Trende that</p> <p>23 the enacted plan reduces the number of split</p> <p>24 counties compared to the benchmark plan, right?</p> <p>25 A. Yes, but not -- not very significant in</p>
<p style="text-align: right;">Page 155</p> <p>1 asked whether I have any opinions. I said, after I</p> <p>2 read it, I do have an opinion. And then I would go</p> <p>3 to record the explanation.</p> <p>4 Q. Did you rely on Mr. Trende's report in</p> <p>5 preparing your rebuttal report?</p> <p>6 A. I used his original report to prepare</p> <p>7 for this rebuttal, yes.</p> <p>8 Q. And did you use any of his data?</p> <p>9 A. No, I didn't.</p> <p>10 Q. And how did you receive Mr. Trende's</p> <p>11 report?</p> <p>12 A. I was sent the report by the counsel.</p> <p>13 Q. Is that by Mr. Cusick?</p> <p>14 A. Yes.</p> <p>15 Q. Did counsel send you any other data or</p> <p>16 materials for your rebuttal report other than</p> <p>17 everything else we've talked about earlier?</p> <p>18 A. I believe there was some articles. I</p> <p>19 don't remember vividly anymore whether at the same</p> <p>20 time he sent me the report, or it was afterwards,</p> <p>21 but I believe there are some data and articles sent</p> <p>22 by Mr. Trende.</p> <p>23 Q. Do you recall whether Mr. Trende's</p> <p>24 opening report mentioned you or your report at all?</p> <p>25 A. No, I don't remember if he mentioned my</p>	<p style="text-align: right;">Page 157</p> <p>1 my view.</p> <p>2 Q. Do you dispute Mr. Trende's calculation</p> <p>3 of core retention percentages?</p> <p>4 A. No, I don't.</p> <p>5 Q. Do you dispute Mr. Trende's conclusion</p> <p>6 that the enacted plan reduces the number of split</p> <p>7 precincts?</p> <p>8 A. No, I don't. It's from 12 to 10.</p> <p>9 Q. And do you dispute Mr. Trende's</p> <p>10 conclusion that the enacted plan results in minimal</p> <p>11 changes to the BVAPs in the districts?</p> <p>12 A. Well, I have no opinion on that</p> <p>13 statement because, who knows, maybe a different</p> <p>14 plan may have even less change when you can even</p> <p>15 just keep the original benchmark district.</p> <p>16 So his assertion of following the</p> <p>17 principle to restore the same old boundaries, I</p> <p>18 don't get that logic at all.</p> <p>19 And I've studied the South. South</p> <p>20 Carolina has been a state that constantly is in the</p> <p>21 front of the civil rights and voting rights</p> <p>22 battles.</p> <p>23 So when he made the argument or tried</p> <p>24 to suggest that simply because this new plan keeps</p> <p>25 the same old plan, as if it's great, I completely</p>

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